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CAPITAL ONE BANK (USA), N.A.,
Erroneously Named As "Capital One"

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA – LAS VEGAS

SUZANNE L. WALSH,

Plaintiff,

v.

CAPITAL ONE, MORTGAGE
SERVICE CENTER, SPECIALIZED
LOAN SERVICING, LLC,
ROUNDPOINT MORTGAGE, and
EXPERIAN INFORMATION
SOLUTIONS, INC.,

Defendants.

Case No.

**DEFENDANT CAPITAL ONE
BANK (USA), N.A.'S NOTICE
OF REMOVAL OF ACTION TO
THE UNITED STATES
DISTRICT COURT FOR THE
DISTRICT OF NEVADA UNDER
28 U.S.C. § 1441(a), 28 U.S.C.
§1331 (FEDERAL QUESTION)**

*[Filed concurrently with Civil Cover
Sheet]*

[Eighth Judicial District Court Case
No.: A-15-722749-C]

Complaint Filed: August 6, 2015
Trial Date: TBA

1 **TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR**
 2 **THE DISTRICT OF NEVADA:**

3 **PLEASE TAKE NOTICE THAT** Defendant Capital One Bank (USA), N.A.,
 4 sued erroneously as Capital One (“Capital One”), hereby invokes this Court’s
 5 jurisdiction under the provisions of 28 U.S.C. § 1441(a) and 28 U.S.C. § 133, and
 6 removes this action from state court to federal court pursuant to 28 U.S.C. § 1446(b).

7 **A. JURISDICTION**

8 1. Capital One specifically alleges that this Court has federal question
 9 jurisdiction over this action pursuant to 28 U.S.C. §§ 1441(a) and § 1331 because
 10 Plaintiff Suzanne L. Walsh (“Plaintiff”) alleges a cause of action arising under the
 11 federal Fair Credit Reporting Act (“FCRA”), codified at 15 U.S.C. §§ 1681 *et seq.*

12 **B. STATEMENT OF THE CASE**

13 2. On August 6, 2015, Plaintiff filed a Complaint in the Eighth Judicial
 14 District Court of the State of Nevada for the County of Clark, designated as Case
 15 Number A-15-722749-C (the “Action”). Pursuant to 28 U.S.C. § 1446(a), true and
 16 correct copies of all process, pleadings and orders received by Capital One in this
 17 case are attached hereto as Exhibit A.

18 3. Plaintiff asserts one (1) cause of action for violation of the Fair Credit
 19 Reporting Act 15 U.S.C. § 1681 *et seq.* (FCRA) in her Complaint against Capital
 20 One.

21 **C. BASIS FOR REMOVAL**

22 4. This Court has jurisdiction over this Action pursuant to 28 U.S.C. § 1331
 23 and 28 U.S.C. § 1441(a) because Plaintiff alleges claims arising under the FCRA,
 24 which is a law of the United States.

25 5. Specifically, for example, Plaintiff’s Complaint alleges that she disputed
 26 information being reported on her Experian credit report related to a Capital One
 27 credit card account, and that Capital One “failed to conduct an investigation with
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1 respect to the disputed information as required by 15 U.S.C. § 1681s-2(b)(1)(A)”;
 2 “failed to review all relevant information provided by Plaintiff in the dispute to
 3 Experian, as required by and in violation of 15 U.S.C. § 1681s-2(b)(1)(B)”; and
 4 “failed to correct and update Plaintiff’s information as required by 15 U.S.C. § 1681s-
 5 2(b)(1)(E), thereby causing continued reporting of inaccurate information in violation
 6 of 15 U.S.C. § 1681-s(2)(b)(1)(C).” *See* Ex. A, Complaint, ¶¶ 36-38. Therefore,
 7 adjudication of Plaintiff’s Complaint requires an analysis and construction of federal
 8 law. Thus, this Action is one which may be removed to this Court by Capital One
 9 pursuant to 28 U.S.C. § 1441(a) and § 1331 because this Court would have had
 10 original jurisdiction founded on Plaintiff’s claim arising under the FCRA.

11 **D. ALL PROCEDURAL REQUIREMENTS FOR REMOVAL HAVE BEEN**
 12 **SATISFIED.**

13 6. Removal of this action is timely. Capital One was served with the
 14 Complaint in this Action on November 19, 2015. Therefore, this Notice of Removal
 15 is “filed within thirty [30] days after receipt by the defendant . . . of a copy of
 16 [Plaintiff’s Summons and Complaint]” in accordance with the time period mandated
 17 by 28 U.S.C. § 1446(b).

18 7. Capital One cannot determine from the court’s register of actions for the
 19 Action which defendants have been served. Attached hereto as Exhibit B is a true and
 20 correct copy of the register of actions for the Action, which was printed from the
 21 Court’s website on December 9, 2015. Capital One obtained the consent of co-
 22 defendants Specialized Loan Servicing, Roundpoint Mortgage, and Experian
 23 Information Solutions, Inc., with each defendant reserving any rights it may have with
 24 respect to disputing personal jurisdiction and/or service. Although (based on the
 25 Court’s register of actions) Capital One does not know whether co-defendant
 26 Mortgage Service Center has been served, counsel for Capital One attempted, but has
 27 been unable, to locate co-defendant Mortgage Service Center. There is no entry for
 28

1 this entity on the Nevada Business Search on the Nevada Secretary of State's website,
2 and a search of PACER turns up no results for it in any federal court proceedings.

3 8. Venue lies in the United States District Court for the District of Nevada
4 in Las Vegas pursuant to 28 U.S.C. § 1446(a) because the Action was filed in this
5 District.

6 9. As stated above, pursuant to 28 U.S.C. § 1446(a), true and correct copies
7 of all process, pleadings and orders received by Capital One in the Action are
8 attached hereto as Exhibit A.

9 10. Written notice of the filing of this Notice of Removal will be promptly
10 served upon Plaintiff. Capital One will also promptly file a copy of this Notice with
11 the Clerk of the Eighth Judicial District Court of Nevada, County of Clark.

12
13 **WHEREFORE** Capital One prays that the above Action now pending against
14 it in the Eighth Judicial District Court of the State of Nevada, County of Clark, be
15 removed therefrom to this Court.

16
17 DATED: December 9, 2015

FERNALD LAW GROUP LLP

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19 By: /S/ Brandon C. Fernald
20 BRANDON C. FERNALD
21 Attorneys for Defendant,
22 CAPITAL ONE BANK (USA),
23 N.A., Erroneously Named As
24 "Capital One"
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